

Case 21301YP

Group V, claim(s) 10-17 and 19, drawn to method of preventing and treating cancer, angiogenesis, retinal vascularization, diabetic retinopathy, age related macular degeneration and retinal ischemia with compounds of formula (1) not covered in Group (I).

Group VI, claims 30 and 31, drawn to a method of preventing and treating cancer with complex compositions in combination with compounds of formula (1) not covered in Group I.

Applicants elect Group I, claims 1-9, drawn to compounds of formula (1), wherein R⁴=cyclic group and R², R³ and R⁵ = hydrogen and compositions thereof with traverse.

35 U.S.C. 121 specifies that if two or more independent and/or distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions. See MPEP 802.01. Independent generally means that there is no disclosed relationship between the two or more claimed inventions. “Distinct” means that the inventions, although related, are capable of separate use and patentably distinguishable.

The Examiner based the restriction on the ground that the present inventions are unrelated because there is no patentable co-action among them and a reference anticipating or rendering obvious one member will not anticipate or render another obvious. On the contrary, the present invention is closely related in structure as tyrosine kinase inhibitors which can be used to treat a subject suffering from tyrosine kinase mediate diseases such as cancer, ocular disease, inflammatory disease and the like. Furthermore, even though only one invention may be claimed in a single application, a reasonable number of species of the invention can be claimed if there is an allowable generic claim in the application, which is the case of the present application. Accordingly, there is no additional burden on the part of the Examiner to conduct the prior art search for examination of the present application in total.

Regarding the method of use and composition claims, the Examiner can access information regarding these claims while searching for the compound themselves. Thus, there is minimal burden on the Examiner to examine Groups I-VI.

Applicants further submit that the instant application complies with the requirement for unity of invention. As noted in the International Preliminary Examination Report, the International Preliminary Examination Authority did not find a lack of unity of invention. The Examiner is directed to PCT Article 27(1), which states

Case 21301YP

"No national law shall require compliance with requirements relating to the form or contents of the international application **different from or additional** to those which are provided for in this Treaty and the Regulations" (Emphasis added). It is respectfully submitted that the standards for unity of invention for the instant application during the national phase must not be "different from or additional to" those utilized by the International Search Authority (ISA) and International Preliminary Examination Authority (IPEA) during the international phase. Thus, it is respectfully submitted that unity of invention is not lacking, a result previously found by the ISA and IPEA and for this reason the restriction should be withdrawn.

Applicants further request that the Examiner apply procedures for the rejoinder of withdrawn method claims consistent with MPEP 821.04 (e.g. the Official Gazette Notice (1184 O.G. 86) of March 26, 1996, and the "Training Materials for Treatment of Product and Process Claims in Light of In re Brouwer and In re Ochiai and 35 U.S.C. 103 (b)"). Applicants note that the method claims already include all the limitations of the main product claim.

As required by the Examiner, applicants further elect the compound of claim 6 as the species, and assert that claims 1-6, 9-36 are identified as encompassing the elected invention.

Applicants would like to bring to the Examiner's attention that claims 18, 20-29 and 32-26 appear to have been left out of this restriction although they are still pending in this case. Clarification is requested for this omission.

In view of the above, the Examiner is respectfully requested to withdraw the restriction requirement.

Authorization is hereby given to charge any fees which may be due as a result of this petition to Deposit Account No. 13-2755.

Respectfully submitted,

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